IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24572 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MRS. BHANUMATIBEN NATVERLAL MISTRI - Petitioner(s)

Versus

THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR VN BHAGODIA for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 26/12/2005

ORAL JUDGMENT

1.This matter is called out twice. The learned advocate appearing on behalf of the petitioner is absent on both the occasions. Under the circumstances, this Court has no any other alternative but to decide and dispose of

the present Special Civil Application on merits ex-parte.

2. By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction or order directing the respondents to pay immediately forthwith outstanding rent due amount of Rs.7,53,696.00 ps. due from respondents to the petitioner and to direct the respondent Nos.2 and 3 to make fresh agreement for rental occupation with above said 20% increase in monthly rent of Rs.23,509/-.

3. The controversy in question is in realm of the contract and in a petition under Article 226 of the Constitution of India, the respondent Nos.2 and 3 cannot be directed to enter into lease agreement. Even so far as the prayer directing the respondents to pay outstanding rent due amount of Rs.7,53,696.00 ps. is concerned, apart from the fact that the same is disputed question of fact, it is a money claim hence, the petition under Article 226 of the Constitution of India is not maintainable for the said relief.

4.Hence, there is no substance in the present Special Civil Application and the same is required to be dismissed and is, accordingly, dismissed.

(M.R.SHAH, J.)

kdc.